IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

WP(C).No. 32481 of 2006(P)

PETITIONER:

G.SARADA GANGADHARAN,
W/O.LATE BAVA GANGADHARAN,
KOOTTUNGAL HOUSE, BEACH WARD,
BAZAR P.O., ALAPPUZHA-12.

BY ADV. SRI.K.K.SATHEESH

RESPONDENTS:
----

1. UNION OF INDIA,
REP. BY THE SECRETARY,
MINISTRY OF HOME AFFAIRS, FREEDOM FIGHTER'S
DIVISION, LOK NAYAK BHAVAN, KHAN MARKET,
NEW DELHI-110 003.

2. STATE OF KERALA,
REP. BY THE SECRETARY,
GENERAL ADMINISTRATION (FFP.A) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

3. THE DISTRICT COLLECTOR,
ALAPPUZHA.

BY ADV. SRI.C.S.AJITH PRAKASH FOR R1
GOVERNMENT PLEADER SRI. V.T.K.MOHANAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 32481/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE EXTRACT OF THE CONVICT REGISTER OF CENTRAL PRISON, TRIVANDRUM BY THE SUPDT. IN RESPECT OF THE PETITIONER'S LATE HUSBAND.

EXT.P2. COPY OF THE PROCEEDINGS OF THE R3 VIDE ORDER NO.R .DIS 34445/71/FB9 DT. 25/1/72.

EXT.P3. COPY OF THE LETTER NO. F6/2733/73 DT. 8/8/75 BY THE R3.

EXT.P4. COPY OF THE APPLICATION DT. 11/4/05 BY THE PETITIONER TO THE RESPONDENTS.

EXT.P5. COPY OF THE LETTER DT. 30/7/05 BY THE R3 TO THE R2.

EXT.P6. COPY OF THE LETTER DT. 12/09/05 BY THE R2 TO THE PETITIONER.

EXT.P7. COPY OF THE REVIEW PETITION DT. 8/11/06 BY THE PETITIONER.

EXT.P8. COPY OF THE JAIL CERTIFICATE FROM THE SUPDT. OF CENTRAL PRISON, TRIVANDRUM DT. 11/08/05.

EXT.P9. COPY OF THE LETTER DT. 7/4/03 BY THE R1 TO THE R2.

EXT.P10. COPY OF THE LETTER DT. 14/08/00 BY THE R2 TO THE R1.

EXT.P11. COPY OF THE EXTRACT OF THE CONVICT REGISTER OF CENTRAL PRISON TRIVANDRUM BY THE SUPDT. IN RESEPECT OF SRI. SREEDHARAN.

EXT.P12. COPY OF THE ORDER DT. 14/12/04 BY THE R1 VIDE NO. 52/CC/K/43/ 2002-FF SZ.

RESPONDENT'S EXHIBITS **NIL.**

True copy

tga

T.R.RAMACHANDRAN NAIR, J.

= = = = = = = = = = = = = = = = =

WP(C).No. 32481 of 2006-P.

= = = = = = = = = = = = = = = = =

Dated this the 24th day of August, 2007.

J U D G M E N T

The petitioner is the widow of late Sri.Bava Gangadharan. The late husband of the petitioner was a freedom fighter who had participated in the Punnapra-Vayalar struggle. The grievance is that inspite of production of Ext.P1 extract of the convict register and other details the District Collector did not forward recommendation to the State Government but by Ext.P5 he sent a report stating that the applicant is not eligible for pension.

2. A reference to the documents produced by the petitioner will show the reason stated in Ext.P5 is wrong and without any application of mind and inspite of the official records the matter is not being recommended for sanction on flimsy grounds.

3. The first reason stated in Ext.P5 is that the Superintendent of Central Prison reported that it is not possible to ascertain the genuineness of the extract of the convict register. This can no longer be a reason in the light of Ext.P8 issued by the Superintendent of Central Prison certifying the details in Ext.P1. The period of conviction and the sentence along with the case

number are stated in Ext.P8. Therefore the said reason goes. The next thing that is stated is that the conviction is after independence. In the letter dated 7.4.2003 of the Central Government addressed to the State Government it is clearly stated that Punnapra-Vayalar struggle being a movement for merger of erstwhile Princely State even if the entire period of claimed suffering was after independence, it will be covered under the scheme. Therefore that ground also falls to the ground. There are three other reasons also, which on an analysis appears to be unsupportable. With reference to CC.No.225/124 it is noted that it is not possible to specify that the same relates to Punnapra-Vayalar struggle. The learned counsel for the petitioner invited my attention to Ext.P10 letter dated 14.8.2000 sent by the State Government to the Union Government recommending the case of one Smt.Omana Sreedharan for grant of Swatanthrata Sainik Samman pension for his participation of her late husband in the Punnapra-Vayalar struggle and the suffered imprisonment is for two years. The same is accompanied by the extract of the convict register of Superintendent of Central Prison, Thiruvananthapuram, Ext.P11 and the calender number of the case is CC.225/124 of the First Class Magistrate Court, Alappuzha, the same as in this case. That applicant was granted pension as evidenced by Ext.P12. Therefore the objection relating to the case number can have no merrit as the State itself has accepted that fact in

Exts.P10 and P11. Further Ext.P1 in column No.14 shows the offence as one under Section 9 of Act 1 of 1122.

4. Then the other ground is that the late husband of the petitioner in an earlier application claimed pension based on his involvement in P.E.7/1122 ME. Obviously it is because the imprisonment in relation to Punnapra-Vayalar after independence was recognised only later as evidenced in Ext.P9 dated 7th April, 2003. Merely because of that the claim of the petitioner cannot be defeated particularly in view of Ext.P9. The learned counsel for petitioners is therefore well founded in his submission that the said objection is without any merit. Therefore for all these reasons, Exts.P5 and P6 are quashed.

5. In the light of the above findings the 2nd respondent State Government is directed to forward fresh verification-cum-entitlement report to the first respondent duly recommending the case of the petitioner for sanction of pension, especially in the light of Ext.P10 relating to a co-accused who was also convicted in the very same case CC.No.225/124 of the First Class Magistrate Court, Alappuzha. This shall be done within a period of six weeks from the date of receipt of a copy of this judgment. On receipt of the same the first respondent shall pass orders on the claim within a further period of two months thereafter. The entitlement of the petitioner for grant

of arrears of pension from the date of receipt of application for SSS pension by the late husband of the petitioner dated 21.4.1998 shall also be considered in accordance with the scheme.

The writ petition is disposed of as above. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-